


BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2001-209-C - ORDER NO. 2001-1010

OCTOBER 17, 2001

IN RE: Application of BellSouth) ORDER DENYING
Telecommunications, Inc. to Provide In-) MOTION TO CONTINUE
Region InterLata Services Pursuant to Section) POST-HEARING
271 of the Telecommunications Act of 1996.) BRIEFING AND OTHER
) PROCEEDINGS



This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Motion filed by AT&T Communications of the Southern States (AT&T) to continue the briefing schedule and to defer making a decision on BellSouth Telecommunications, Inc.'s (BellSouth) Section 271 application for South Carolina (South Carolina Application) until after the Federal Communications Commission (FCC) issues its decision regarding BellSouth's Section 271 application for Georgia (Georgia Application).

MOTION OF AT&T TO CONTINUE POST-HEARING BRIEFING AND OTHER PROCEEDINGS

AT&T first argues that the post-hearing briefing in South Carolina should be continued due to BellSouth's own filings in Tennessee. According to the Motion, on September 14, 2001, BellSouth filed a "Motion to Amend Procedural Schedule" in the Tennessee Section 271 proceedings. AT&T also points out that BellSouth filed yet another "Motion to Amend Procedural Order" on September 18, 2001. According to AT&T, this second motion seeks to consolidate all remaining BellSouth 271 issues in

Tennessee and schedule them to be heard in late February 2002 by the Tennessee Regulatory Authority (TRA); the TRA is evaluating the adequacy of BellSouth's OSS in a proceeding that is separate from the Section 271 proceeding. This Commission, according to AT&T, should wait until the FCC evaluates the Georgia Third Party Test (TPT) and the Georgia Service Quality Measurement plan (SQM) in the context of the upcoming Georgia Application. AT&T also argues that the FCC will provide guidance on the completeness and relevance of the Georgia TPT and the Georgia SQM, whether the FCC approves or disapproves BellSouth's Georgia Section 271 application. Further, AT&T opines that this guidance can only assist the Commission in making its Section 271 recommendation for South Carolina.

Next, AT&T argues BellSouth's reliance on the Georgia proceedings to establish nondiscriminatory support is premature. According to AT&T's Motion, neither the Georgia SQM nor the Georgia TPT upon which BellSouth relies has yet been reviewed by the FCC, much less approved by the FCC. Therefore, continuing the post-hearing briefing schedule, according to AT&T, will provide the Commission with an opportunity to fully review the FCC's decision on the Georgia Application before rendering a Section 271 decision in South Carolina. AT&T also argues that until the FCC reviews and approves the Georgia SQM (and results therefrom) and the Georgia TPT, it would be imprudent for the Commission to rely upon this information in deciding the pending Section 271 Application for South Carolina.

Finally, AT&T argues that a postponement of the instant proceeding pending the resolution of the Georgia proceedings would enable both the Commission and the parties

to conserve resources. According to AT&T's Motion, it would be unnecessary and wasteful for BellSouth to continue to press the Commission to make a decision regarding its Section 271 application in South Carolina based upon only existing information from Georgia that has not yet been reviewed by the FCC. In AT&T's opinion, by continuing the post-hearing briefing until the FCC has rendered its decision, the Commission would promote judicial efficiency and economy.

**BELLSOUTH'S RESPONSE TO AT&T'S MOTION TO CONTINUE POST-
HEARING BRIEFING AND OTHER PROCEEDINGS**

BellSouth argues in its Response to AT&T's Motion to Continue Post-Hearing Briefing and Other Proceedings (Response) that AT&T's Motion is its most recent attempt to postpone the matter in the instant docket. BellSouth states in its Response that AT&T has been afforded full opportunity to raise objections. More specifically, according to BellSouth, AT&T has already raised its OSS objection in this docket when the Commission conducted almost three weeks of hearings in this proceeding with full opportunity for cross examination and direct testimony by AT&T. Additionally, BellSouth opines that AT&T can similarly raise its objections in its brief. In sum, the Commission, according to BellSouth, should reject AT&T's "self-serving" motion for delay.

Next, BellSouth argues the Commission should not wait on the results of the Florida Third Party Test. BellSouth asserts that it has the right to proceed with its 271 application and BellSouth is prepared to defend its evidence of Section 271 compliance. BellSouth points out that no commission in the BellSouth region has delayed a Section 271 review to await the final results of the Florida TPT. In essence, BellSouth believes

nothing prevents AT&T from filing its brief on its view regarding the relevancy of the Florida test.

The Response also indicates that the Commission should not wait on the FCC to issue an Order on BellSouth's pending applications prior to the Commission issuing its own Order. BellSouth argues that the Commission obviously is taking its role very seriously in light of the enormous amount of time and effort the Commission has put into the proceeding. Moreover, BellSouth argues the Commission should not delay its decision in this proceeding due to the hearing schedule in Tennessee. First, BellSouth points out that it did not base any of its positions in Tennessee on the premise that the TRA must wait until after an FCC decision in Georgia. Second, the procedural posture of the Tennessee case is completely different than this case — BellSouth's 271 case in Tennessee did not commence until July 30, 2001 whereas in South Carolina evidence has been submitted, a three-week hearing was conducted, and a briefing schedule has been established.

DISCUSSION

We have reviewed AT&T's Motion and BellSouth's Response. Accordingly, we find that AT&T's Motion should be denied. First, this Commission, after extended discussion, established a detailed, bifurcated hearing schedule, and heard almost three weeks of evidence regarding BellSouth's 271 Application in South Carolina. Second, AT&T noted in its Motion that BellSouth has filed two Motions in Tennessee to amend the procedural schedule regarding the 271 Application. However, unlike Tennessee, this Commission has not only heard close to three weeks of evidence in a formal hearing, it

has also established a briefing and/or proposed order schedule for all the parties to participate. Additionally, AT&T and all other parties have the opportunity in their briefs and/or proposed orders to raise any legal arguments that they deem appropriate. This Commission has not and will not prematurely decide any issues in this docket prior to reviewing all evidence, briefs and/or proposed orders.

IT IS THEREFORE ORDERED THAT:

1. AT&T's Motion to Continue Post-Hearing Briefing and Other Proceedings is denied.
2. This Order shall remain in full force and effect until further Order of this Commission.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director
(SEAL)